

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7786

Petition of New Cingular Wireless PCS, LLC,)
d/b/a AT&T Mobility, for a certificate of public)
good, pursuant to 30 V.S.A. § 248a, for the)
installation of telecommunications facilities in)
Warren, Vermont)

Order entered: 11/22/2011

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the application filed on October 25, 2011, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility ("AT&T" or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Procedures Order ("Procedures Order"),¹ and grants the Petitioner a certificate of public good ("CPG") authorizing the installation of telecommunications facilities in Warren, Vermont (the "Project").

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioner on October 25, 2011, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the installation of telecommunications facilities in Warren, Vermont.

On November 15, 2011, the Vermont Department of Public Service ("Department") filed a letter with the Board recommending that the Board issue an order approving the Project without further hearings or investigation.

No other comments or requests for hearing regarding the Project have been filed with the Board.

¹ *Amended order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a*, Order issued August 10, 2011.

The Board has determined that the petition and prefiled testimony have effectively addressed those criteria. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. The Project involves the collocation of wireless telecommunications equipment by AT&T at a partially constructed telecommunications facility owned by Vermont RSA Limited Partnership and Cellco Partnership, each d/b/a Verizon Wireless ("Verizon"), in Warren, Vermont.² The Project objective is to improve wireless service in Warren and the surrounding area. Exh. 6-B.1 at § III.
2. The Project is proposed to be located on property owned by Summit Ventures NE, LLC at 2405 Sugarbush Access Road in Warren, Vermont. Exh. 6-B.1 at § I.
3. The Project includes the installation of up to nine panel antennas, each measuring 4' high by 11" wide by 7" deep, at a height of 90' on the 100' tall tower. The Project also includes a new 11'6" by 20' equipment shelter, a 50 kW generator on a 11' by 5' concrete pad, and associated equipment and cabling, within the fenced gravel compound. Exh. 6-B.1 at § II.
4. The Project will not increase the height or width of the facility or support structure, and will not result in any earth disturbance. Exh. 8A at 2.
5. The Project will not have an undue adverse impact on floodways, the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 6-9, below.
6. The Project involves the collocation of equipment at an approved facility and it will not have an undue adverse effect on aesthetics when viewed in this setting. Exh. 6-B.1 at § IV.
7. The collocation of equipment will not increase the size of the approved facility and, accordingly, will not impact rare or irreplaceable natural areas, wildlife habitat, or endangered species within the vicinity of the Project. Exh. 6-B.1 at § IV.

2. Verizon's facility received Conditional Use Approval from the Town of Warren and an Act 250 Land Use Permit in August of 2010.

8. The Project involves the collocation of equipment at an approved facility with minimal incremental visual impact. Therefore, the Project will not have an undue adverse impact on historic sites. Exh. 6-B.1.

9. The Project is not located in a floodway. Exh. 6-B.1 at § IV.

10. The approved communications facility upon which the Petitioner will collocate is encumbered by Act 250 Land Use Permit No. 5W1530 and Municipal Permit No. 2010-04-CU, both issued in August of 2010. The Project will be constructed and operated consistent with the conditions included in both permits. Exh. 6-B.1 at VIII.

IV. DISCUSSION AND CONCLUSION

The procedures governing Board approval of communications facilities are set forth in 30 V.S.A. § 248a. Section 248a(l) provides that the Board:

may issue rules or orders implementing and interpreting this section. In developing such rules or orders, the board shall seek to simplify the application and review process as appropriate . . .

In order to implement the statute the Board adopted the Procedures Order. In accordance with § 248a(b)(3), the Procedures Order, at Section II, defines a project of "limited size and scope" as:

a new telecommunications facility, including ancillary improvements, that does not exceed 140 feet in height; or an addition, modification, replacement, or removal of equipment at an existing telecommunications facility or support structure, and ancillary improvements, that would result in a total facility height of less than 200 feet and does not increase the width of the existing support structure by more than 20 feet. In order to qualify as a project of limited size and scope, construction of the project shall not result in earth disturbance of more than 10,000 square feet of earth, excluding temporary earth disturbance associated with construction activities.

As required by § 248a (c)(1), and set forth in Section IV(H) of the Procedures Order, in reviewing projects of limited size and scope the Board conditionally waives:

all criteria under 30 V.S.A. § 248a (c)(1), with the exception of 10 V.S.A. §§ 6086(a)(1)(D) (floodways) and 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas, endangered species, necessary wildlife).

The proposed Project involves the addition of telecommunications equipment to a previously approved and partially constructed telecommunications facility. The Project will not increase the height or width of the facility or support structure, and does not involve any earth disturbance. Therefore, the Project qualifies as a facility of "limited size and scope" as defined in § 248a(b)(3) and the Procedures Order. In reviewing projects of limited size and scope, the Board conditionally waives all review criteria with the exception of 10 V.S.A. §§ 6086(a)(1)(D)(floodways) and 6086(a)(8) (aesthetics, historic sites, rare and irreplaceable natural areas, endangered species, necessary wildlife).

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the location specified in the above findings, by New Cingular Wireless PCS, LLC, d/b/a AT&T Mobility, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 22nd day November, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: November 22, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.